

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

SB 73 - HB 63

February 9, 2015

SUMMARY OF BILL: Authorizes the Commissioner of the Department of Agriculture (DOA) to deny, revoke, suspend, or modify any license, charter, or certification, and to impose civil penalties up to \$1,000, or issue warning notices, for violations of the Tennessee Application of Pesticides Act of 1978, without first having to conduct a hearing.

ESTIMATED FISCAL IMPACT:

On January 29, 2015 the fiscal note for this bill was erroneously issued without the required commerce impact statement. The fiscal note is being corrected to include a commerce impact statement. The fiscal impact estimated for state government remains unchanged.

Increase State Revenue – Exceeds \$2,000/Agriculture Regulatory Fund

Assumptions:

- Pursuant to Tenn. Code Ann. § 62-21-118, the Commissioner of DOA has the power and duty to administer the provisions of the Tennessee Application of Pesticides Act of 1978 (the Act).
- Pursuant to Tenn. Code Ann. § 62-21-119(a), the Commissioner is required to conduct a hearing for the purpose of denying, revoking, suspending, or modifying a license, charter or certification, when a person has violated provisions of the Act.
- The Uniform Administrative Procedures Act (UAPA), specifically Tenn. Code Ann. § 4-5-320(c), requires a hearing for proceedings affecting a license or permit.
- Section 1 of this bill removes the requirement pursuant to Tenn. Code Ann. § 62-21-119(a), but the requirement pursuant to the UAPA will remain.
- DOA confirms that the Department will be regulated by the UAPA with respect to license and permit issues if this bill is enacted. As a result, the Commissioner will still be required to conduct hearings on such issues. Therefore, any fiscal impact applicable to hearings is considered to be not significant.
- According to DOA, civil penalties may not be imposed under current law on a person who has not obtained a charter, license, or certificate, or on individuals that have let their charter, license, or certificate expire. DOA indicated that enactment of this bill will

provide the Department the ability to assess civil penalties on such individuals up to a maximum of \$1,000.

- Based on information provided by DOA, the average civil penalty is estimated to be \$250.
- According to the DOA, the department issues approximately 81 civil penalties per year under current law.
- It is estimated that a minimum of eight additional civil penalties will be assessed per year as a result of this bill.
- DOA indicates that any civil penalty revenue will be deposited to the Agriculture Regulatory Fund
- The recurring increase in state revenue to the Agriculture Regulatory Fund is estimated to exceed \$2,000 (\$250 average penalty x 8 minimum additional penalties) per year.

IMPACT TO COMMERCE:

Increase Business Expenditures - Exceeds \$2,000

Assumption:

- The minimum eight additional civil penalties will be paid by pesticide applicator businesses found in violation of Tennessee Application of Pesticides Act. As a result, the recurring increase in business expenditures is estimated to exceed \$2,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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